

Application Serial No.: 09/927,638  
Reply to Office Action dated May 22, 2003

**REMARKS**

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 5-8 and 10-13 are presently active in this case, Claims 6 and 8 having been amended and Claims 10-13 having been added by way of the present Amendment.

Claims 5 and 6 were rejected under 35 U.S.C. 103(a) as being unpatentable over Simmons (U.S. Patent No. 5,788,076). Claims 7 and 8 were rejected under 35 U.S.C. 103(a) as being unpatentable over Simmons in view of Doyle (U.K. 2,240,205). For the reasons discussed below, the Applicants traverse the obviousness rejections.

The basic requirements for establishing a *prima facie* case of obviousness as set forth in MPEP 2143 include (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings, (2) there must be a reasonable expectation of success, and (3) the reference (or references when combined) must teach or suggest all of the claim limitations. The Applicant submits that a *prima facie* case of obviousness has not been established in the present case because the reference(s) does not teach or suggest all of the claim limitations.

Claim 5 of the present application advantageously recites a manufacturing/handling instructing data code comprising a data code to be affixed to a package of fluid component packaged goods, the data code containing at least manufacturing instructing data to be utilized in manufacturing the fluid component in the fluid component packaged goods and handling instructing data to be utilized in handling the fluid component packaged goods,

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wherein the data code is configured so as to contain the data for instructing manufacturing and handling operations to be automated to be able to directly instruct processing and handling operations in a processing or handling section.

Claim 7 of the present application advantageously recites a manufacturing/handling instructing data code comprising a data code to be affixed to a paint can goods in which paint is filled, the data code containing at least manufacturing instructing data to be utilized in manufacturing the paint filled in the paint can goods and handling instructing data to be utilized in handling the paint can goods in which the paints are filled, wherein the data code is configured so as to contain the data for instructing manufacturing and handling operations to be automated to be able to directly instruct processing and handling operations in a processing or handling section.

The Applicants submit that the cited references do not teach or suggest all of the limitations recited in Claims 5 and 7 of the present application.

The Official Action basically admits that the cited references do not teach the data code recited in Claims 5 and 7. However, the Official Action indicates that the “where the sole distinction set out in the claims over prior art is in printed matter, there being no new feature of physical structure and no new relation of printed matter to physical structure, such claims may not be allowed.” However, the Official Action does not cite any caselaw or a section in the Manual of Patent Examining Procedure for such an assertion. And the Applicants submit that such a conclusion is improper. The Applicants submit that all of the limitations of the claims must be considered during examination of the application.

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Additionally, the Applicants note that a data code as recited in Claims 5-8 does have physical structure, which is a new structure indicating the manufacturing and handling of a product, while Simmons shows a data code of a different structure based on a different function as stated in the previous remarks for the first Official Action. A non-limiting example of such a data code is a backing material, such as paper, and a series of ink bars, which clearly include physical structure. In fact, it is that physical structure that is utilized by a data code reader to retrieve the information regarding manufacturing and handling of the product. Furthermore, the physical structure of the present invention is clearly distinct from the cited references, which the Official Action basically admits do not teach the structure of a data code that is configured such that it includes physical structure representative of manufacturing and handling of a product. (See also the discussion in Amendment filed on April 14, 2003, regarding the art rejections of the claims.) The data code is not merely a matter of design choice, but rather provides specific manufacturing and handling information that is not disclosed in any of the references of record. The benefits of such a data code are discussed throughout the specification.

*not new*

*indicia*

Accordingly, the Applicants respectfully request the withdrawal of the obviousness rejections.

Claims 6 and 8 are considered allowable for the reasons advanced for Claims 5 and 7 from which they depend. These claims are further considered allowable as they recite other features of the invention that are neither disclosed, taught, nor suggested by the applied references when those features are considered within the context of Claims 5 and 7.

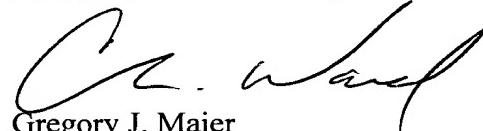
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Newly added Claims 10-13 are considered allowable as they recite features of the invention that are neither disclosed nor suggested by the references of record.

Consequently, in view of the above discussion, it is respectfully submitted that the present application is in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully Submitted,

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